

1 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

2 Application Serial No.09/411,171
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4 InventorshipMazhar et al.
5 AssigneeMicrosoft Corporation
6 Group Art Unit2173
7 ExaminerNguyen, Cao H.
8 Attorney's Docket No.MS1-1583US
9 Title: WINDOWS RADIO TOOLBAR

10 **PRE-APPEAL BRIEF REQUEST FOR REVIEW**

11 To: **Mail Stop AF**
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20 **REMARKS**

21 The Pre-Appeal Panel (hereinafter "Panel") is respectfully requested to
22 consider this Request, which is submitted in accordance with the Pre-Appeal Brief
23 Conference Program rules. A summary of the rejected claims is provided in the
24 Office Action dated November 25, 2005, on pages 2-5 thereof (hereinafter "Office
25 Action"). The Applicant summarized the rejections of record on page 3 of this
26 Request. The Panel is requested to reconsider the rejections of record in view of
27 the following remarks.

28 **Rejection of Claims 29-42**

29 Applicant respectfully submits that the rejection of claims 29-42 does not
30 meet the statutory requirements of 35 U.S.C. §102(a) and/or 35 U.S.C. §103(a).
31 This conclusion is explained in the following.

Page 5 of the Office Action states that “claims 29-42 are analyzed as previously discussed with respect to claims 22-28.” This statement is the Office’s sole basis for rejecting claims 29-42. Applicant has carefully reviewed Office’s reasons for rejecting claims 22-28 and has found that the Office has failed to consider numerous limitations set forth in claims 29-42.

For example, referring to **independent claim 35**, nothing in the Office’s comments addresses the subject matter “*launching* an instance of the Web browser,” “*creating a radio client upon the launching of the Web browser...*,” and/or “*establishing a shared memory* on the computer system between the radio client and the radio server to maintain a current playback-state of the radio server.” Applicant has carefully considered the relied upon art and submits that the references, whether taken alone or in combination together, fail to teach or suggest at least the indicated limitations of **independent claim 35**.

In addition, referring to **independent claim 38**, nothing in the Office’s comments addresses the subject matter “*inactivating* the mute button if the computer system *cannot modify* streaming media playback volume and *activating* the mute button otherwise,” and/or “*inactivating* the volume slider if the computer system *cannot modify* streaming media playback volume.” Applicant has carefully considered the relied upon art and submits that the references, whether taken alone or in combination together, fail to teach or suggest at least the indicated limitations of **independent claim 38**.

The Panel is respectfully requested to review both the current Office Action and the previous Office Action dated April 4, 2005. Such a review will show that the Office has not addressed the limitations of claims 35 and 38. Claims 35 and 38 were first presented for consideration in a Response filed September 20, 2004.

1 Until the discrepancies discussed above are rectified, the Applicant respectfully
2 submits that the current art ground rejection of these claims is improper and
3 should be withdrawn.

4 **Rejection of Claims 22-28**

5 **Claims 22-42** are rejected under 35 U.S.C. §102(a) as allegedly being
6 anticipated by RealPlayer G2™ © 1998 (hereinafter, RealPlayer) as supported by
7 the screenshots (hereinafter “Screenshots”, “Screenshot [number]”, etc.) and the
8 press release “Realnetworks Ships Final Release of Realsystem G2, Next
9 Generation Media Delivery System” (hereinafter “Press Release”). For the
10 following reasons, Applicant believes the rejection is improper.

11 The following text summarizes the Applicant’s arguments set forth on pages
12 12-17 of the Response dated September 2, 2005. However, the Panel is respectfully
13 requested to consider the entirety of those arguments in addition to the text below.

14 Referring to Appendix A, submitted with the Response dated September 2,
15 2005, the RealPlayer G2 interface includes a display panel where visual parts of clips
16 are show, if they exist, that are related to one of the icons selected in the content
17 panel located to the left of the display panel. If the content chosen from the content
18 panel does not include video, the display panel remains static with the “real” emblem
19 displayed therein. Picking one of the icons in the content menu will begin a media
20 stream (audio and/or video) that is played through the RealPlayer. During streaming,
21 if another icon in content panel is chosen, the current media stream will stop and
22 streaming media related to the another chosen icon will commence.

23 The RealPlayer interface includes a search field immediately following the
24 “snap.com” reference. When a user of the RealPlayer enters text in this field and
25 selects the “Search” control button of the interface, a *separate* Web browser window

1 is rendered and the search commences. The Web browser is not part of the
2 RealPlayer interface. For example, the RealPlayer may launch Microsoft ® Internet
3 Explorer to facilitate search of text entered into the search field.

4 The Office may notice that the display panel also includes a “click here”
5 option in the particular view shown in the Appendix A. If a user were to click on the
6 “click here” option, a *separate* Web browser window is rendered and a Web page is
7 displayed within the browser window.

8 The operational characteristics of the RealPlayer do not provide the
9 functionality of “rendering a *graphical user interface of a Web browser displaying*
10 *Web page content in a browser pane*, and having at least one speaker for playing
11 streaming media, *the graphical user interface of the Web browser* comprising: a) a
12 radio toolbar displaying radio-toolbar buttons for controlling the streaming media
13 *irrespective of the Web page content being browsed*, the radio-toolbar buttons
14 including...” (Emphasis added; see **independent claim 22.**)

15 The content of the RealPlayer display panel is always associated with
16 whatever media is being currently streamed by the player. Therefore, it cannot be
17 said that the RealPlayer media controls can control current streaming media
18 *irrespective* of Web page content being browsed. To achieve such a result, the
19 display panel would need the functionality of a Web browser, which it does not
20 have, and further would need to have access to content that *is not* related to media
21 being currently streamed by the player. The display panel of the RealPlayer is
22 unable to achieve this functionality as well.

23 The Office admits that RealPlayer does not show (e.g., in the Screenshots)
24 that the radio toolbar of RealPlayer has at least one button for controlling the first
25 source of streaming media irrespective of the Web page content being browsed

(Office Action, page 3). The Office asserts, however, that the screenshots of RealPlayer *imply* that the radio toolbar of RealPlayer has at least one button for controlling the first source of streaming media irrespective of the Web page content being browsed. As examples, the Office indicates that the “preset stations and the auto update feature are irrespective of each other”, and that “the user of RealPlayer may search the Web while playing the streaming media, as indicated by the ‘excite’ and ‘search’ areas within screenshot 2.” The Office further relies on the Press Release under the section, “RealAudio and RealVideo Search”, as describing integrating the RealPlayer with a Web browser. The detailed discussion of the RealPlayer interface shown in Appendix A explains why the Office’s assertions that the RealPlayer implicitly teaches streaming media, irrespective of the Web page content being browsed, are incorrect.

Conclusion

In accordance with the above, the Panel is respectfully requested to reconsider and withdraw the rejection of claims 22-42 under 35 U.S.C. §102(a) and/or 35 U.S.C. §103(a). Claims 22-42 are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of the subject application.

Date: 2-16-2006

Respectfully Submitted,

By: 

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